

Michael Zimmerman
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December 9, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: **Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement**
v.
Discount Power, Inc.
Docket No. M-2021-3022658

Dear Secretary Chiavetta,

Pursuant to the Commission's Tentative Order dated October 28, 2021, in the above-captioned proceeding, enclosed for filing please find the **Comments of Michael Zimmerman** on the Joint Petition for Settlement (Settlement), filed August 27, 2021 at this proceeding. Copies have been served on the parties as indicated on the enclosed Certificate of Service. Please feel free to contact me with any questions, comments, or concerns.

Best Regards,



Michael Zimmerman

Enclosures

cc: Certificate of Service
Daniel Mumford, Office of Competitive Market Oversight (dmumford@pa.gov)
Laura J. Antinucci, Esq., Office of Consumer Advocate (lantinucci@paoca.org)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2021-3022658
	:	
Discount Power, Inc.	:	

COMMENTS OF MICHAEL ZIMMERMAN

I, Michael Zimmerman, hereby submit the following Comments on the Joint Petition for Settlement (“Proposed Settlement”) filed at this docket on August 27, 2021, between the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and Discount Power, Inc. (“DPI”), a licensed Electric Generation Supplier (“EGS”). The Proposed Settlement would resolve alleged misconduct by DPI, including alleged “(1) misleading and deceptive telemarketing; (2) billing of incorrect rates; (3) failure to issue renewal letters; (4) unauthorized enrollments; and (5) a lack of record keeping.” Proposed Settlement at ¶¶ 7, 11. By Tentative Order entered October 28, 2021, the Commission invited public comment on the Proposed Settlement, and directed comments to be filed within 25 days of the publication of the Tentative Order in the *Pennsylvania Bulletin*. The Tentative Order was published on November 13, 2021. 51 Pa.B. 7137-7150. These Comments were therefore due yesterday, December 8, 2021. However, I respectfully request that the Commission accept these Comments out-of-time, because as discussed below, the event spurring these Comments occurred

on December 6, 2021. Moreover, acceptance of these Comments will contribute to the development of a more complete record in this proceeding.

By these Comments, I respectfully urge the Commission to hold the Proposed Settlement in abeyance pending further investigation of DPI. Further investigation is warranted because DPI may be continuing to engage in the same types of deceptive and misleading conduct that precipitated I&E's investigation and the Proposed Settlement.

By way of background: I am a residential customer of Duquesne Light Company. On December 6, 2021, I received a telemarketing call, apparently from DPI, which closely resembled the deceptive telemarketing calls described in the Proposed Settlement at ¶¶ 16-20.¹ For example:

- The call originated from a “spoofed” number, wherein the caller ID was manipulated to appear as though the call originated from Western Pennsylvania.²
- The call began with a prerecorded message that did not identify the caller, and stated that I was eligible to receive a \$50 gift card if I pressed one.
- The telemarketing agent to whom I was transferred after pressing one (“Agent”) failed to identify who he was calling on behalf of until the twelfth minute of the call.
- Agent materially misrepresented my electric rates and mischaracterized his offered product. Agent stated that he would provide a rate of 14.99 cents per kWh for 12 months, which he stated represented a 30% discount on my electric bill. Agent advised I was paying

¹ This December 6, 2021 call was in addition to a prior telemarketing call I received from DPI, which was the subject of a separate formal complaint at C-2020-3021020. The parties ultimately reached a settlement in that complaint, and a certificate of satisfaction was filed February 2, 2021. *See* I&E Statement in Support of the Proposed Settlement at 9-10 FN2. By these Comments, I am not currently proposing to reopen that proceeding, but I reserve all rights with respect to the enforcement of the parties' settlement therein.

² I am withholding the “spoofed” telephone number from these Comments to protect the privacy of the actual owner of that phone number. Upon the conclusion of December 6 call from DPI, I dialed the “spoofed” number back in an attempt to speak further with DPI. My call was answered by a Western Pennsylvania resident, for whom the telephone number is their personal number. This person advised me they were not affiliated with DPI, nor had given DPI permission to use their personal telephone number. This person authorized me to share their name and contact information with Commission investigators, which I will provide on a confidential basis upon request.

“almost 17.99 cents” per kWh of electric supply. In fact, my effective supply rate is between 7 and 8 cents per kWh.

- Agent coached me to answer “yes” on all questions from the third-party verifier.

The Agent eventually terminated the call before completing the third-party verification process, so it currently appears that I was not enrolled with DPI as a result of the call. Agent indicated that the call was being recorded. I can provide a recording of the call to Commission investigators upon request.

This call constitutes reason to believe that DPI may be continuing the same sorts of misconduct that the Proposed Settlement is ostensibly intended to deter. It is also reasonable to suspect that the above-described call to me was not an isolated incident – nothing about the call suggested that I was exclusively targeted – but may be a part of a larger telemarketing campaign intended to ensnare multiple customers in the Commonwealth. Further investigation is therefore warranted to determine the nature and extent of such misconduct.

If substantiated, ongoing deceptive telemarketing by DPI would bear on several of the applicable factors at 52 Pa. Code § 69.1201 by which the Commission evaluates settlements. Relevant factors include (but are not necessarily limited to) the seriousness of DPI’s conduct (§ 69.1201(c)(1)), DPI’s efforts to prevent similar misconduct (§ 69.1201(c)(4)), DPI’s compliance history (§ 69.1201(c)(6)), the extent of DPI’s cooperation with the Commission’s investigation (§ 69.1201(c)(7)), and whether the settlement is appropriate amount necessary to deter future violations (§ 69.1201(c)(8)). Therefore, pending further investigation, it may be appropriate for the Commission to reexamine the proposed civil penalty or take additional enforcement action.

I appreciate the opportunity to submit these Comments for the Commission's consideration. For the reasons described herein, I respectfully encourage the Commission to direct further investigation of DPI, and to hold the Proposed Settlement in abeyance pending the conclusion of such investigation.

Respectfully,

A handwritten signature in blue ink that reads "Michael Zimmerman". The signature is written in a cursive style with a long horizontal stroke at the end.

Michael Zimmerman

Dated: December 9, 2021

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
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VERIFICATION

I, Michael Zimmerman, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

ELECTRONIC MAIL

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On behalf of Discount Power, Inc.

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Michael Zimmerman
3812 Howley Street
Pittsburgh, PA 15201

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